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MISC 24-0804

February 28, 2024

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

★ FEB 28 2024 ★

BY HAND DELIVERY

Clerk of the Court
United States District Court, Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

BROOKLYN OFFICE

Re: Application for DMCA Subpoena

Dear Sir or Madam:

On behalf of Sufjan Stevens and Asthmatic Kitty Records, (hereinafter, collectively, “AKR”), we respectfully request that the Clerk of the Court issue a subpoena pursuant to 17 U.S.C § 512(h).

By way of background, Section 512(h) of the Digital Millennium Copyright Act provides that a “Copyright owner or a person authorized to act on the owner’s behalf may request the clerk of any United States District Court to issue a subpoena to a service provider for identification of an alleged infringer in accordance with this subsection.” 17 U.S.C. § 512(h)(1). For a subpoena to be issued, Section 512(h) requires that a copyright owner file the following with the Clerk:

1. A copy of the notification required by Section 512(c)(3)(A);
2. A proposed subpoena; and
3. A sworn declaration of Robert Meitus, Esq. to the effect that the purpose for which the subpoena is sought to obtain the identity of an alleged infringer and that such information will only be used for the purpose of protecting rights under this title.

Accordingly, attached for the filing with the Clerk is AKR’s notifications pursuant to Section 512(c)(3)(A), a proposed subpoena and sworn declaration. As AKR has complied with the requirements of the statute, we respectfully ask that the Clerk expeditiously issue and sign the proposed subpoena a subpoena pursuant to 17 U.S.C. § 512(h)(4).

Notwithstanding anything to the contrary herein, AKR expressly reserves any potential claim against UnitedMasters LLC, and any argument as to UnitedMaster’s status as a “service provider” that enjoys limited liability under Section 512 of the Copyright Act.

Clerk of the Court
February 28, 2024
Page 2

Very truly yours,



Sangyoон Nathan Park

NP:PG



January 11, 2024

SENT VIA FIRST-CLASS MAIL AND EMAIL

UnitedMasters
Attn: General Counsel
10 Jay Street, Brooklyn, NY 11201
copyright@unitedmasters.com

Donovin Adams p/k/a Papii Don 777

To Whom It May Concern:

We represent Sufjan Stevens and his label, Asthmatic Kitty Records (collectively, "Sufjan Stevens" or "our client"). Please forward this letter as you deem appropriate.

Sufjan Stevens is the copyright owner of the musical composition and sound recording entitled "Fourth of July" (Copyright Registration Nos. PA0001985920 and SR0000768456) (collectively, the "Work"). We have been advised that Donovin Adams p/k/a Papii Don 777 ("Adams") used the Work in the track entitled "Number 7 (Outro)" (the "Infringing Track") distributed by UnitedMasters, without obtaining permission and the appropriate licenses from Sufjan Stevens for such use.

In order to mitigate further damage to our client, we demand that Adams and UnitedMasters:

1. Immediately cease and desist, and agree to never to use the Work, or any other musical works and/or sound recordings owned and/or controlled by Sufjan Stevens, on any products (including CDs, Cassettes, Vinyl, etc.) throughout the world;
2. Immediately cease and desist from all manufacturing, distributing, advertising, and/or selling of any product incorporating the Infringing Track;
3. Immediately remove the Infringing Track from any and all digital service providers (e.g., Spotify, Apple Music, Pandora, TikTok Music, etc.);
4. Provide our client with a written statement regarding the quantities of products incorporating the Work manufactured, purchased, sold and remaining in inventory (including digital downloads, streams, etc.), and agree to the prompt destruction of any remaining inventory; and
5. Immediately provide our client with an accounting of profits from your sales of products including Infringing Track, and from any and all revenue streams including, but not limited to, digital downloads, digital service providers, and public performance and digital public performance revenues, so that the parties may quickly reach consensus on the amount of our client's damages.

Once we have the information listed above, we will require that you disgorge all profits from the Infringing Track to our client and cover legal fees or otherwise settle the matter as mutually agreed. If you do not substantially comply with our requests within ten (10) business days from the date above written, we will consider taking legal action, including filing a copyright infringement suit seeking statutory damages, attorney fees, and costs.

This letter also supplements our official notification under Section 512(c) of the Digital Millennium Copyright Act (“DMCA”) through United Master’s Google Form, and we request that UnitedMasters immediately remove the Infringing Track and cease any further posting of the Infringing Track in the future.

We have a good faith belief that the Infringing Track is not authorized by our client, its agents, or the law. The information in this notification is accurate, and under penalty of perjury, the undersigned is authorized to act on behalf of our client.

We hope that this matter can be settled efficiently to avoid costly litigation. If you have contrary information, or if you or your representative would like to discuss this matter further, you may do so by contacting me by email at rmeitus@mgrfirm.com.

Document retention notice: *In addition, you should immediately preserve all electronic records and paper documents relating to the purchase, sale, license, loan, uploading, linking, hosting, or otherwise providing access to the copyrighted work. This preservation should include, without limitation, any emails or other communications or records (electronic or otherwise) referencing the Sufjan Stevens, the IP addresses, server logs, user registration data, and all other files, records, documents, or information constituting or evidencing the sharing or accessing of the works. Failure to preserve relevant evidence may lead to legal sanctions and to adverse inferences. This letter is sent without prejudice to Sufjan Stevens' rights and claims, all of which are expressly reserved. This communication is an offer of compromise of a dispute, and as such is not admissible under Rule 408 of the Federal Rules of Evidence (and any state counterparts thereof).*

Sincerely,



Robert Meitus, Esq.
Meitus Gelbert Rose LLP
121 E. Kirkwood Ave., Suite 300
Bloomington, IN 47403
rmeitus@mgrfirm.com

2/9/24, 3:46 PM

Mail - Megan Wheeler - Outlook

UnitedMasters DMCA Form

Google Forms <forms-receipts-noreply@google.com>

Thu 1/11/2024 12:04 PM

To:Megan Wheeler <mwheeler@mgrfirm.com>

You don't often get email from forms-receipts-noreply@google.com. [Learn why this is important](#)



Thanks for filling out UnitedMasters DMCA Form

Here's what was received.

UnitedMasters DMCA Form

To notify UnitedMasters of a copyright infringement or other legal claim relating to content distributed by UnitedMasters, please complete the form below.

Please note, your statements in this document are legally binding, and may subject you to legal consequences.

Under 17 U.S.C § 512(f) any person who knowingly materially misrepresents that material is infringing may be liable for damages. You should only submit this form if you in good faith believe that this content infringes upon your rights.

As such, UnitedMasters urges you to consult an attorney before submitting a claim.

*This form is for copyright infringement claims only. If you believe that your trademark rights have been infringed, please contact us directly at copyright@unitedmasters.com.

Email *

mwheeler@mgrfirm.com

First Name *

Please provide your full legal name as it appears on your government issued ID.

2/9/24, 3:46 PM

Mail - Megan Wheeler - Outlook

Megan

Last Name *

Please provide your full legal name as it appears on your government issued ID.

Wheeler

Company Name *

If you are not the representative of a company, or do not have a corporate identity, please enter N/A.

Meitus Gelbert Rose LLP

Mailing Address *

121 E. Kirkwood Ave., Suite 300, Bloomington, IN 47408

Phone Number *

(310)773-6777

Alleged Infringing Content Details

To help us locate the information in UnitedMaster's system, please provide the following release information from the content you would like to report: Artist Name, Release Title, and Track Title

Donovin Adams p/k/a Papii Don 777, 777, "Number 7 (Outro)"

Please Provide a Link to the Content You Would Like to Report *

This can be a link to any platform where the content is live, such as Spotify, Apple Music, or YouTube.

2/9/24, 3:46 PM

Mail - Megan Wheeler - Outlook

<https://open.spotify.com/track/2Lhsp5iqhzUIDW4Yguy9j4?si=3262c3ca258c4141>

Please select which part of the release you believe is infringing on your rights. *
You may select more than one.

- The composition
- The sound recording
- Other:
-

What is your relationship to the rightsholder? *

Authorized agent to the rightsholder ▾

Please describe the owned copyrighted work, and provide a link to an authorized example of the copyrighted work if possible *

Sufjan Stevens and Asthmatic Kitty Records, Carrie & Lowell, "Fourth of July"
<https://open.spotify.com/track/5Qnrgqy1pAm9GyNQOgyVFz?si=78584d09e698477e>

Where are you asserting your rights? *

- Worldwide
- US only
- European Union Only
- Asia Only
- Africa Only
- Other:

By clicking on "SUBMIT" below, you are certifying the following statements: *

- I state, under penalty of perjury, that I am the owner of the exclusive right that is allegedly infringed, or an authorized agent for the rightsholder
- I state that I have a good faith belief that use of the work(s) in the manner complained of is not authorized by the rightsholder, its agent, or the law. (e.g. fair use)
- I state, under penalty of perjury, that the information in this notification is accurate.
- I understand and agree that my contact information and/or claim may be passed to the alleged infringing party, and retained as long as required for legal purposes.
- I understand that submitting a fraudulent report or engaging in other misuse of this process may result in legal consequences and/or revocation of my right to use this tool.

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